

Environmental Litigation Update

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Challenges to Army Ranges/Army Operations

- Alaska Community Action on Toxics v. Dep't of the Army, (D. Alaska)
- Delta Junction v. Dep't of the Army, (D. Alaska)

Alaska Community Action on Toxics v. Dep't of the Army, (D. Alaska)

- Citizen suit alleges that Army's use of the Eagle River Flats firing range at Fort Richardson, Alaska:
 - constitutes the discharge of pollutants into the waters of the United States, for which a Clean Water Act permit is required, and
 - that CERCLA requires the Army to do a Remedial Investigation/Feasibility Study to address unexploded ordnance throughout Fort Richardson
- Plaintiffs seeking summary judgment on CWA and CERCLA counts
- Litigation has been closely linked to RRPI

Delta Junction v. Dep't of the Army (D. Alaska)

- Suit filed in July 2003 by the City of Delta Junction, Alaska, alleges that the Army's proposed expansion of the Donnolly Training Area near Fort Greely violates NEPA
 - Alleges that the Army's EA is insufficient because the proposed federal action will result in unmitigated significant impacts to the environment
 - Seeks to permanently enjoin the range expansion until preparation of a full EIS

Chemical Weapons Demilitarization Litigation

- Citizens for the Responsible Destruction of Chemical Weapons v. Dep't of the Army (S.D. Ohio)
- Chemical Weapons Working Group, et al., v. DOD, et al. (D.D.C.)
- GASP v. Environmental Quality Commission of the State of Oregon, (Oregon Circuit Court, Multnomah County)
- Akers et. al. v. United States, (D. Or.)
- Families Concerned about Nerve Gas Incineration, et al., v. Department of the Army, et al. (N.D. Ala.)
- Chemical Weapons Working Group v. Arkansas Department of Environmental Quality, (Arkansas Pollution Control and Ecology Commission, on appeal to Arkansas Circuit Court)

Citizens for the Responsible Destruction of Chemical Weapons v. Dep't of the Army (S.D. Ohio)

Citizen suit filed in July 2003 alleging that decision to ship hydrolysate from Newport Chemical Demilitarization Facility to a commercial facility in Ohio for final treatment and disposal violates NEPA because it was made without an adequate environmental impact statement.

- Hydrolysate is a by-product of the destruction of VX nerve agent by means of chemical neutralization.
- Construction at NECDF is nearly complete and demilitarization operations are scheduled to begin in Jan 2004.

Chemical Weapons Working Group v. DOD (D.D.C.)

- Citizen suit filed in Mar 2003 seeking to enjoin the Army's chemical weapons incineration programs in Alabama, Arkansas, Oregon, and Utah.
- Suit alleges the Army's failure to prepare a Supplemental Programmatic Environmental Impact Statement for the chem demil program violates NEPA.
- CWWG alleges that an SPEIS is required because of significant new information since the programmatic decision was made in 1988 to use incineration.

Families Concerned about Nerve Gas Incineration v. Dep't of the Army (N.D. Ala.)

- November 2002, plaintiffs sued to permanently enjoin incineration operations at Anniston Chemical Agent Disposal Facility.
- Plaintiffs allege that the agent operations at facility will pose an imminent and substantial endangerment under RCRA

GASP v. Environmental Quality
Commission of the State of Oregon,
(Oregon Circuit Court, Multnomah
County)

- GASP sued the Oregon Environmental Quality Commission (EQC) based on the EQC's refusal of GASP's petition to revoke the state permits issued to the Umatilla Chemical Agent Disposal Facility.
- The permittees (Army and Washington Demilitarization Group) intervened.
- Trial, held during 2002-03, is nearly complete

Akers et. al. v. United States, (D. Or.)

- Plaintiffs (49 construction workers) allege that they were negligently exposed to chemical warfare agent at the Umatilla Chemical Agent Disposal Facility (UMCDF).
- Investigations by the Army, the construction contractor (Raytheon), and the State of Oregon ruled out chemical warfare agent, but could not pinpoint the source of the illnesses reported by the workers.
- The court recently narrowed the issues for trial to plaintiffs' allegations of negligent storage of chemical agent weapons, negligent medical response to an industrial accident and negligent investigation.
- Trial is scheduled to begin in October 2003.

CWWG v. Arkansas Department of Environmental Quality, (Ark. Cir. Court).

- Citizen suit challenge to the Pine Bluff Chemical Demilitarization Facility
- Suit seeks to revoke the state-issued CAA and RCRA permits for the Pine Bluff incineration facility

Perchlorate Contamination

Atlantic Research Corporation v. Dep't of the Army (W.D. Ark.)

- In Dec 2002, Atlantic Research Corp. sued the Army under CERCLA for perchlorate contamination of soil and groundwater at a formerly used defense site in Camden, Arkansas.
- ARC seeks contribution for cleanup costs for contamination that resulted from work it performed on Chaparral rockets.
- Castaic Lake v. Whitaker, 2003 U.S. Dist. LEXIS 11991